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S P E E C H

OF

HON. JOHN B. HENDERSON,

DELIVERED BEFORE

The Pike County Colony of St. Louis, at its
Annual Dinner on February 25, 1899, in
reply to the toast "Our Nation, State and
County."

MR. PRESIDENT AND GENTLEMEN :

Your toast is so broad as to create some confusion in selecting the most appropriate line of thought. Presuming, however, that a reference to the political questions growing out of the late Spanish war, and to the probable consequences of continued strife in Asia, may prove acceptable, I shall venture to submit to you not a speech, but a mere statement of some important facts connected with our history as a nation, coupled with references to a few legal authorities, which, I hope, may tend to elucidate some controverted questions of the day.

During the Revolutionary War large bodies of unoccupied lands, some of them extending out to the Mississippi river, were claimed by some of the States. New York claimed Vermont, and so did New Hampshire; Virginia claimed what was known as the Northwest Territory, lying between the Ohio and Mississippi rivers, including the land now covered by the States of Ohio, Indiana, Illinois, Wisconsin, Michigan, and that part of Minnesota lying east of the Mississippi river.

In addition to this, Virginia owned what is now Kentucky: North Carolina claimed the territory now covered by Tennessee: Connecticut claimed the western reserve in Ohio, and Massachusetts claimed Maine. Other States made similar claims. As early as 1779 some of the States began to insist that it would be inequitable and unjust for them to join the Confederacy and be compelled to defend this vast outlying territory, unless the lands should thereafter be owned and enjoyed by the whole Union. Thus it is that we, as a Union of States, acquired territory long before the Constitution was adopted; and it is pertinent to our present politics to ascertain the terms and conditions on which it was obtained and held.

The Maryland instructions to its delegates in the old Congress of the Confederacy declared that the territory, "if wrested from the common enemy by the blood and treasure of the thirteen States, should be considered as a common property, subject to be parcelled out by Congress into free, convenient, and independent governments, in such manner and at such times as the wisdom of that assembly shall hereafter direct."

In October, 1780, the Congress of the Confederation acted on these suggestions and passed a resolution as follows:

"Resolved, That the unappropriated lands that may be ceded to the United States by any particular State, pursuant to the recommendation of Congress . . . shall be disposed of for the common benefits of the United States and be settled and formed into distinct republican States, which shall become members of the federal Union, and have the same rights of sovereignty, freedom, and independence as the other States."

In the celebrated ordinance of 1787, passed by the Congress of the Confederation, for the government of that large body of land which had been ceded by Virginia, almost the entire Bill of Rights, afterwards inserted in the Federal Constitution, was incorporated. The second, third, and fourth articles of that act contain all the essential guaranties of human liberty. Slavery was expressly interdicted, and civil liberty in its purest

forms was secured by fundamental law, and the right of admission as States was expressly ordained. And even the Indian was not forgotten. "Their lands and property," said the ordinance, "shall never be taken from them without their consent, and in their property, rights, and liberty they shall never be invaded or disturbed."

Now if you will bear in mind that, when the Constitution was subsequently framed, the original thirteen States of the Confederacy already owned this vast territory which had been ceded to the Union by the several States for the common benefit, you will readily understand the necessity for, and the meaning of, the following provision of the Constitution, to wit:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State."

The men of my age, if any now in my hearing, will remember the long and exciting discussions between 1848 and 1860, touching the meaning of this provision. In the light of contemporaneous history, the true construction of this clause is almost forced upon our understandings. In some cases agreements to transfer territory had been made by some of the States, but the final deeds of cession had not been executed. In other words, the titles to parts of the territory were in an inchoate state; and it was especially necessary to give as little offense as possible to those States whose consent to the Constitution might become necessary to its adoption, and to the organization of the new government under it. Hence it was essential to provide that the Constitution, if adopted, would leave all these titles, whether of the General Government or of the States, in *statu quo*.

In all cases where the title had already passed to the Confederated States, the new government would necessarily become the owner of the lands. The new government, under the Constitution proposed, being one of strictly delegated powers,

it became necessary, of course, to invest Congress with authority to dispose of the lands. And hence the provision authorizing Congress "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

The clause clearly shows that the extent of the rules and regulations provided for respected not the inhabitants, for they had been carefully secured in all their rights in the deeds of cession, but they respected solely the sale and disposition of the lands as property; and this is abundantly proved by the words "territory or *other* property belonging to the United States." In no view of construction could the inhabitants themselves belong to the United States; and the words "other property" absolutely compel the conclusion that the word "territory" was used in the context as one of the species of property belonging to the Union. The old Confederacy owned a number of forts, some of which were still held by Great Britain under the treaty of peace concluded in 1783, because of our inability, so far, to make restitution for the numerous confiscations made upon the property of Tories and British subjects during the Revolutionary War, which restitution had been pledged by the stipulations of that treaty.

To this question of ownership of territory under completed and contemplated grants by States, during the existence of the old Confederacy, may be attributed the incorporation of several other provisions of the Constitution, notably the one declaring that "new States may be admitted by the Congress into this Union." The deeds of cession had themselves specially provided for such admission of States, and this provision was essential to enable the new government to carry out the obligations of the previous government. Contemporaneous history makes clear also the remainder of this latter section. At that time the present State of Tennessee, under the name of "Franklin," was preparing to secede from North Carolina, of which it was a part, and the following additional provisions were inserted: "But no new State shall be formed or erected within the jurisdiction of any other State:

nor any State formed by the junction of two or more States or parts of States without the consent of the legislatures of the States concerned, as well as of the Congress."

These threatened troubles were afterwards adjusted by consent of the parties interested, and by the subsequent admission into the Union of Tennessee, Kentucky, and Vermont.

Another clause was thought to be necessary because of provisions, in the deeds of cession, requiring that these territories should be divided into convenient boundaries and admitted as States into the Union, on an equal footing with the original thirteen States, whenever they had, respectively, sixty thousand inhabitants; provided that their constitutions and government should be republican in form; hence came the 4th section of the 4th article of the Constitution, providing that "the United States shall guarantee to every State in this Union a republican form of government."

It may be safely asserted, I think, that all these provisions of the Constitution which I have quoted were framed to meet the exigencies named—conditions already existing when the Constitution was framed.

And I think it may also be safely affirmed that further acquisitions of territory, either by purchase or by conquest, had not then occurred to American statesmen. James Madison, who has been properly called the father of the Constitution, was Secretary of State in 1803, when Mr. Jefferson concluded the purchase of the Louisiana territory from France; and both he and Mr. Jefferson are on record as totally denying the power to have made that treaty, or for the Government of the United States, under any circumstances, to acquire and hold territory, except under the constitutional authority to admit States upon the voluntary consent of their inhabitants.

It was the opinion of John Adams, and his son John Quincy Adams, and equally the opinion of Daniel Webster.

This purchase was made under a great emergency, and to remove the imminent danger of a secession of the Southwestern States, lying on the Ohio and Mississippi rivers, from the Union.

Mr. Jefferson likened his action to that of a guardian invest-

ing the funds of his ward, and afterwards seeking his consent to the investment to give it validity. He afterwards drafted an amendment to the Constitution in the hope to legalize this infraction and to avoid in the future the dangers of the precedent.

But I now distinctly waive all questions of authority for the acquisition of territory, and I am willing to accept the opinion of Chief Justice Marshall, interpreting the Florida treaty of 1819, in the case of *American Insurance Co. v. Canter*, and reported in 1 Peters, in which he placed the power to acquire territory on the treaty-making clause of the Constitution.

But while I accept this and subsequent decisions of that great court, I accept them in the precise terms in which they have been rendered. I accept them because the acquisition of territory ceases to be dangerous when the people inhabiting them are to be clothed by the Constitution with the full panoply of American freedom.

ALL TREATIES ACQUIRING TERRITORY HISTORICALLY CONSIDERED.

I now proceed to show you the provisions of former treaties under which territory has been acquired by the United States, and then briefly to examine the judicial interpretations of those treaties; and, after doing so, I shall ask you to consider the difference between them and the late Spanish treaty.

From the treaty with France, known as the Louisiana treaty, concluded April 30, 1803, I copy the following article, numbered 3, in the following words:

“The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the meantime, they shall be maintained and protected in the free enjoyment of liberty, property, and the religion which they profess.”

From the treaty with Spain, known as the Florida Purchase, concluded February 22, 1819, ratified February 22, 1821, I read Article 6:

"The inhabitants of the territories which His Catholic Majesty cedes to the United States, by this treaty, shall be incorporated in the Union of the United States, as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States."

From the treaty with Mexico, concluded February 2, 1848, I shall omit Articles 8 and 9, and read from the protocol of May 26, 1848, by which the 9th Article was stricken out and the 6th Article of the Louisiana treaty was substituted, in the following language:

"1st. The American Government by suppressing the 9th Article of the Treaty of Guadalupe Hidalgo and substituting the 3d Article of the Treaty of Louisiana did not intend to diminish in any way what was agreed upon by the aforesaid Article 9th in favor of the inhabitants of the territories ceded by Mexico. Its understanding is, that all of that agreement is contained in the 3d Article of the Treaty of Louisiana. In consequence, all the privileges and guarantees, civil, political, and religious, which would have been possessed by the inhabitants of the ceded territories, if the 9th Article of the treaty had been retained, will be enjoyed by them, without any difference, under the article which has been substituted."

The treaty with Mexico, concluded December 30, 1854, proclaimed June 30, 1854, known as the Gadsden Purchase, provides as follows:

"ARTICLE V.

"All the provisions of the eighth and ninth, sixteenth and seventeenth Articles of the Treaty of Guadalupe Hidalgo, shall apply to the territory ceded by the Mexican Republic in the first Article of the present treaty, and to all the rights of persons and property, both civil and ecclesiastical, within the same, as fully and as effectually as if the said articles were herein again recited and set forth."

I come now to the treaty with Russia for the purchase of Alaska, concluded March 30, 1867, ratified and proclaimed June 20, 1867.

“ARTICLE III.

“The inhabitants of the ceded territory, according to their choice, reserving their natural allegiance, may return to Russia within three years : but if they prefer to remain in the ceded territory, they, with the exception of uncivilized native tribes, shall have the immunities of citizens of the United States, and shall be maintained and protected in the free enjoyment of their liberty, property, and religion. The uncivilized tribes will be subject to such laws and regulations as the United States may, from time to time, adopt in regard to aboriginal tribes of that country.”

In order to mark with emphasis the contrast between the stipulations of all these several treaties and those of the late treaty with Spain of December 10, 1898, I shall now read the following clauses from the latter treaty, with the purpose, however, of referring to them again :

“ART. 10. The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress ;” and again—

“The inhabitants of the territories over which Spain relinquishes, or cedes her sovereignty, shall be secured in the free exercise of their religion.”

Of course, there have been as yet no judicial determinations touching the scope and meaning of these clauses in the Spanish treaty. But it will be particularly observed by you that, so far as the treaty itself is concerned, no rights, either civil or political, except religious freedom, are attempted to be guaranteed or assured to the inhabitants.

Why this marked distinction is made must be judged by each of you as future history may develop.

As one of the consequences, however, of that distinction, we now have a cruel, bloody—I fear, a very unfortunate—war in the Philippine Islands.

But I will postpone further reference to the late treaty until I shall have shown from judicial interpretation, and other authority, the rights of inhabitants and citizens of ceded territories under all those treaties concluded prior to the late Spanish treaty.

And that brings me to inquire *in limine*.

CAN OUR GOVERNMENT IN ITS PRESENT FORM HOLD AND GOVERN TERRITORY AS A COLONIAL POSSESSION?

The Supreme Court of the United States, in the Dred Scott case, said: "A power therefore in the General Government to obtain and hold colonies and dependent territories, over which they (Congress) might legislate without restriction, would be inconsistent with its own existence in its present form."

In *Murphy v. Ramsay*, 114 U. S., it is said:

"The power of Congress over the Territories is limited by the obvious purposes for which it was conferred, and those purposes are satisfied by measures which prepare the people of the Territories to become States in the Union."

Justice McLean, in his separate opinion in the Dred Scott case, said:

"In organizing the government of a territory, Congress is limited to means appropriate to the attainment of the constitutional object. No powers can be exercised which are prohibited by the Constitution, or which are contrary to its spirit; so that, whether the object may be the protection of the persons and property of purchasers of the public lands or of communities who have been annexed to the Union by conquest or purchase, they are initiatory to the establishment of State governments, and no more power can be claimed or exercised than is necessary to the attainment of the end. This is the limitation of all the federal powers."

In *Shively v. Bowlby*, 152 U. S., the Supreme Court said:

"The territories acquired by Congress, whether by deed of cession from the original States, or by treaty with a foreign

country, are held with the object, as soon as their population and condition justify it, of being admitted into the Union as States, upon an equal footing with the original States in all respects."

In the same case is the following language :

" Upon the acquisition of a territory by the United States, whether by cession from one of the States or by treaty with a foreign country, or by discovery and settlement, the same title and dominion passed to the United States for the benefit of the whole people, and in trust for the several States, to be ultimately created out of the territory."

Judge Cooley, in his work on Constitutional Law, says :

" It could never have been understood that any territory which by purchase, cession or conquest, should at any time come under the control of the United States, should permanently be held in a territorial condition, and the new States which have been formed of territory acquired by treaty must be supposed to have been received into the Union in strict compliance with the Constitution."

Continuing, he says :

" And when territory is acquired, the right to suffer States to be formed therefrom and to receive them into the Union must follow of course, not only because the Constitution confers the power to admit new States without restriction, but because it would be inconsistent with institutions founded on the fundamental idea of self-government that the Federal Government should retain territory under its imperial rule and deny the people the customary local institutions."

The same author, in contrasting the territorial system of the United States from the colonial system of Great Britain, says :

" There are differences which are important and, indeed, vital. The first of these is that the territorial condition is understood under the Constitution to be merely temporary and preparatory : and the people of the territories, while it

continues, are assured of the right to create and establish State institutions for themselves as soon as the population shall be sufficient and the local conditions suitable: while the British colonial system contained no provision or assurances of any but a dependent government indefinitely."

Daniel Webster, the great expounder of the Constitution, said:

"Arbitrary governments may have territories and distant possessions because arbitrary governments may rule them by different laws and different systems. Russia may rule in the Ukraine and the provinces of the Caucasus and Kamtschatka by different codes, ordinances or ukases. We can do no such thing. *They must be of us, part of us, or else strangers.*"

I can confidently assert that up to date judicial authority and the practice of all the political departments of the Government establish the fact that—

THE TERM, UNITED STATES, COVERS ALL THE TERRITORY OVER WHICH THE NATIONAL SOVEREIGNTY EXTENDS.

It therefore follows that, on the ratification of the pending treaty by the Spanish Cortez, Puerto Rico and the Philippine Islands will become a part of the United States; and their inhabitants must at once become entitled to all the guarantees of civil liberty contained in the Federal Constitution.

In Pomeroy's Constitutional Law it is said:

"But is Congress absolute over these districts or territories? Is it, like the British Parliament, bound by no limitations save those which are self-imposed? This cannot be; nor does the language of the Constitution require a construction so much opposed to all our ideas of civil polity. The safeguards of individual rights—those clauses which preserve the lives, liberty, and property of the citizen from the encroachments of arbitrary power—must apply as well to that legislation of Congress which is concerned exclusively with the District of Columbia, or with the Territories, as to that which is concerned with the States. The reasoning which leads to this conclusion is irre-

sistible. A bill of rights is certainly no less important for the District of Columbia and for the Territories than for that portion of the nation which is organized into States. If it were thought necessary that Congress should be hedged around with restrictions while it is legislating for the inhabitants of States, who may be partially protected by their local governments, how much more necessary that the same body should be restrained while legislating for the inhabitants of those districts and Territories over which it has an exclusive control. The mandatory clauses of the first eight amendments are clothed in the most general language, and they make no exceptions; they apply to Congress in the exercise of all its functions; in general terms they cover its legislation for *the District of Columbia and for the Territories*, as well as for the States. These clauses must, therefore, be compulsive upon Congress when it makes laws for the District or for the Territories, unless the general language in which they are framed is modified by the particular language of the provisions which especially relate to the District and to the Territories. There is evidently nothing contradictory between these provisions and the general restrictions of the Bill of Rights."

Continuing on the same subject, the author says :

"Furthermore, as the clauses in question are mandatory and peremptory in their nature, and directed at once to each branch of the Government, they require no statute of Congress, decision of judge, or act of President to execute them and give them binding efficacy. *They execute themselves without the aid of an inferior law. Any proceeding of the Government in derogation of their command would be void; any proceeding declaratory would be useless.*"

In *Loughborough v. Blake*, 5 Wheaton, the Supreme Court of the United States, by Marshall, C. J., said :

"The power, then, to lay and collect duties, imposts, and excises may be exercised, and must be exercised, throughout the United States. Does this term designate the whole or any particular portion of the American empire? Certainly this question can admit of but one answer. It is the name given to our great Republic, which is composed of States and Territories. The District of Columbia or the territory west of the Missouri is not less within the United States than Maryland

or Pennsylvania, and it is not less necessary, on the principles of our Constitution, that uniformity in the imposition of imposts, duties, and excises should be observed in the one than the other. Since, then, the power to lay and collect taxes, which includes direct taxes, is obviously co extensive with the power to lay and collect duties, imposts, and excises, and since the latter extends throughout the United States, it follows that the power to impose direct taxes also extends throughout the United States."

In *U. S. v. More*, 3 Cranch, it is said :

"The Constitution was made for the benefit of every citizen of the United States, *and there is no citizen, whatever his condition, or wherever he may be, within the territory of the United States, who has not a right to its protection.*"

In the *Dred Scott* case, the Supreme Court said :

"It (the Government) enters upon territory with its powers over the citizen strictly defined and limited by the Constitution, from which it derives its own existence, and by virtue of which alone it continues to exist and act as a government and sovereignty. It has no power of any kind beyond it, and it cannot, when it enters a territory of the United States, put off its character and assume discretionary or despotic powers which the Constitution has denied to it. It cannot create for itself a new character separated from the citizens of the United States and the duties it owes them under the provisions of the Constitution. The territory being part of the United States, the Government and the citizen both enter it under the authority of the Constitution, with their respective rights defined and marked out, *and the Federal Government can exercise no power beyond what that instrument confers, nor lawfully deny any right which it has reserved.*"

In *Murphy v. Ramsey*, 114 U. S., it is said :

"The personal and civil rights of the inhabitants of the territories are secured to them as to other citizens by the principles of constitutional liberty which restrain all the agencies of government, State and national."

The same doctrine is repeated in *Reynolds v. U. S.*, 98 U.S.;

in *Springville v. Thomas*, 116 U. S.; in *American Publishing Co. v. Fisher*, 166 U. S.; in *Thompson v. Utah*, 170 U. S.

In *Callan v. Wilson*, 127 U. S., the Supreme Court held the following language respecting a case arising in the District of Columbia, where Congress is invested with the power of exclusive legislation :

“ There is nothing in the history of the Constitution or of the original amendments to justify the assertion that the people of the District may be lawfully deprived of the benefit of any of the constitutional guarantees of life, liberty, and property. . . . We cannot think that the people of this District have in that regard less rights than those accorded to the people of the Territories of the United States.”

I return now for a moment to the late Spanish treaty. And I think I am justified in expressing surprise that, in framing its provisions, our commissioners should have departed from the established precedents of over one hundred years. In all previous cases the treaties, in express words, recognized the inhabitants as a part of the American people, and clothed them with all the rights and immunities of citizens of the United States. They were assured of protection in life, liberty, and property and promised future admission as States on an equal footing with those already in the Union.

The population of former acquisitions, thus covered by the shield of the Constitution, contained French, Spanish, Creoles, Mexicans, Russians, and Indians. In the declaration of war last April the first utterance was that the Cubans “ are and of right ought to be free and independent.” Admiral Dewey, as early as June last, and again in August thereafter, assured our Government that the Philippines were better morally and intellectually, and more capable of self-government, than the Cubans, and that he knew both races well.

Both Cuba and the Philippines had declared their independence and established revolutionary governments. Both were struggling for their liberties; and both had received encouragement and arms from our Government. Both freely shed their blood in aid of the United States against Spain,

and both were promised liberty and independence by public officials of our country.

Why, then, were Cuba and the Philippine Islands placed on a different footing?

Our declared object in the Spanish war was to secure the freedom and independence of the Cubans. Our declared purpose in the Philippines is to subject their inhabitants to the unlimited control of the Congress of the United States. A legislative assembly representing the people is now in session in Cuba. The members of the revolutionary government, organized to secure the independence of the Philippines, are being shot to death by American soldiers for no other crime than that committed by every soldier who followed our flag to establish freedom and self-government in the thirteen American colonies. I do not know who declared this Philippine war. Our Constitution commits to Congress the sole power of declaring war in all cases. Its records are painfully silent on this subject. And yet the fact of war is evidenced by the blood and death of thousands who but recently stood with us as allies in the Spanish war. A few short months ago we waged war to free the struggling people of Cuba, and to establish their right to govern themselves. We now wage war to establish *for ourselves*, in the Philippines, the same imperial right to govern others which we denied to Spain in Cuba. A war for self-government in half a year has degenerated into a total denial of our own declaration of independence.

If Madame Roland yet lived she might again exclaim upon the crimes committed in the sacred name of liberty.

It is a wicked plea to say that the Filipinos are incapable of self government. Such has ever been the plea of the master of the slave and of the imperial oppressor of weaker nations.

Mr. Lincoln well said that God never made a man good enough to be owner of a slave. It is equally true that *man* has never established a nation good and just enough to govern another people without their consent.

But is it true that the Cubans are better qualified for self-government than the people of Luzon, whose aspirations for

self-government are suppressed by the strong hands of a people who constantly boast their sympathy with the victims of oppression and wrong everywhere?

It now appears that Admiral Dewey forwarded to the Navy Department, a short time after taking Cavite, a dispatch, as follows: "These people are far superior in their intelligence and more capable of self-government than the natives of Cuba, and I am familiar with both races."

On August 29th he again telegraphed from Manila, as follows:

"The population of Luzon is reported to be something over 3,000,000, mostly natives. These are gentle, docile, and, under just laws and with the benefits of popular education, would make good citizens." In this he refers to the dispatch of June 20th, already quoted, in regard to their capacity for self-government, and says: "Further intercourse with them has confirmed me in this opinion."

It is now in evidence that, in June last, the exiled Philippines at Singapore delivered an address to our consul, Mr. Pratt, in that city, in the following language:

"SIR: The Philippine colony resident in this port, composed of representatives of all social classes, have come to present their respects to you as the legitimate representative of the great and powerful American Republic, in order to express our eternal gratitude for the moral and material protection extended by Admiral Dewey to our trusted leader, General Emilio Aguinaldo, who has been driven to take up arms in the name of 8,000,000 Filipinos, in defence of those very principles of justice and liberty of which your country is the foremost champion. Our countrymen at home, beloved native land, hope that the United States, your nation, persevering in its humane policy, will efficaciously second the program arranged between you, sir, and General Aguinaldo in this port of Singapore, and secure to us our independence under the protection of the United States. Our warmest thanks are especially due to you, sir, personally, for having been the first to cultivate relations with General Aguinaldo, and arrange for co-operation with Admiral Dewey, thus supporting our aspirations, which time and subsequent actions have developed and

caused to meet with the applause and approbation of your nation. Finally, we request you to convey to your illustrious President and the American people, and to Admiral Dewey, our sentiments of sincere gratitude, and our most fervent wishes for their prosperity."

Mr. Platt's reply is as follows:

"Now we have news of the brilliant achievements of your own distinguished leader, General Aguinaldo, co-operating on land with the Americans at sea. . . . When, six weeks ago, I learned that Gen. Aguinaldo had arrived *incognito* in Singapore, I immediately sought him out. An hour's interview convinced me he was the man for the occasion, and having communicated with Admiral Dewey, I, accordingly, arranged for him to join the latter, which he did, at Cavite. I am thankful to have been the means, the merely accidental means, of bringing about the arrangement between General Aguinaldo and Admiral Dewey which has resulted so happily. I can only hope that the eventual outcome will be all that can be desired for the happiness and welfare of the Filipinos."

In presenting an American flag to the insurgents, Mr. Pratt said:

"This flag was borne in battle, and is the emblem of that very liberty that you are seeking to attain."

I copy also from a speech of Hon. Geo. Gray, U. S. Senator from Delaware, and one of our commissioners to make the treaty of peace at Paris with Spain. This speech was made before the Board of Trade at Wilmington, where he resides, as follows:

"Commodore Dewey had brought Aguinaldo back to Luzon, and by his (Aguinaldo's) leadership and the encouragement of the American fleet, the embers of the insurrection, which had died out, were rekindled into a flame, and the assistance of the insurgent forces was gladly availed of by our commodore. It then came to be thought that in our settlement with Spain we could not honorably leave the inhabitants of these islands to the tender mercies of their Spanish oppressors and hand over brave men, who had assisted our fleet and army in the

hour of need, to Spanish dungeons, or to the firing line of Spanish execution."

It is admitted, upon the evidence preserved by the commissioners and now partly published, that on the 23d of June last Aguinaldo published at Cavite, under the eyes of Admiral Dewey, his proclamation as President of the Philippines, declaring the absolute independence of the islands and establishing a revolutionary government pledged to the building up of a great republic in the islands based on the consent of the governed.

From that proclamation I copy the following :

"It (the new government) struggles for its independence in the firm belief that the time has arrived in which it can and ought to govern itself. There has been established a revolutionary government under wise and just laws, suited to the abnormal circumstances through which it is passing, and which in proper time will prepare it for a true republic." . . . "This people has resources and energy sufficient to liberate themselves from the ruin and extinction into which the Spanish government has plunged it, and to claim a modest but worthy place in the concert of free nations."

After the organization of this government, it is known and admitted that the troops of Aguinaldo were armed by Admiral Dewey, and that the Filipinos assisted us in the land battles at Manila under circumstances tantamount to a positive understanding that the islands should be free and independent.

It cannot be said that we have been misled as to the intentions of the revolutionary government, or that we ever intimated to the people that we would interfere with their purpose to establish an independent government. To prove this I might exhibit to you numberless facts, but the substance of all is contained in the official report of Major Bell made to General Merritt on August 29, 1898, while in command at Manila, and by him placed in the hands of our commissioners at Paris. It is as follows :

"There is not a particle of doubt but that Aguinaldo and his

leaders will resist any attempt of any government to reorganize a colonial government here. They are especially bitter toward the Spaniards, but equally determined not to submit any longer to being a colony of any other government."

It will be observed that Admiral Dewey only pledged their good behavior "under just laws." Was it just toward them for us to depart in treaty-making from our established precedents of a century? Was it just to pledge independence and freedom to Cuba and eternal colonial vassalage to the Philippines? Was it just to tender autonomy and self-government to one and military satraps and proconsuls to the other? Was it just to hold the promise of liberty to the ear, and break it to the hope? Was it just to accept their services in time of need and lose the sense of gratitude in the hour of victory?

We are great enough to be just, even generous, to a weak and struggling people. But no nation is strong enough to bear the burden of perfidy and deceit.

The Philippine government had its commissioners at Paris during the progress of the late treaty negotiations. The character of these men must not be mistaken. They were able, intelligent, and not unacquainted with history or the arts of diplomacy. Spanish imperialism and Spanish cruelty had stamped upon every fibre of their natures a bitter hatred of oppression and an intense love of liberty. An alien government at Madrid, five thousand miles away, had for centuries governed them in a spirit of relentless tyranny. These people, too, had come to believe that "all men are created equal;" that "governments derive their just powers from the consent of the governed;" that it is the right of the people to cast off oppression, and "to institute a new government, laying its foundation on such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

It was the constant boast of our treaty commissioners at Paris that these humble agents of a people seeking only "their inalienable rights" were never seen or consulted by them, and that their modest supplications were unheard in the council

chambers, where twenty million dollars were freely given to the oppressor, while to the impoverished victims was left the poor privilege of worshipping at altars of religion already gilded by gold wrenched from their poverty and reeking with the blood of their people.

For ages they had been plundered by an alien government at Madrid. And now for the long and uncertain future "the civil rights and political status of the native inhabitants . . . shall be determined by the Congress of the United States." They asked for bread and we gave them a stone. They asked for fish and we gave them a serpent.

Gentlemen, in addition to the phraseology of the treaty itself, I might refer you to the many speeches made in the Senate by the advocates and expounders of that treaty, in which military imperialism, in its most offensive forms, has been advanced, not only as a constitutional doctrine, but as the true policy of our nation. And, as an indication approving the new doctrine, let me call your attention to the following resolution passed by the United States Senate since its ratification of the treaty. I know not its purpose. If it be intended as an exposition of the treaty, the people of the Philippine Islands are well justified in fearing a state of things even worse than war.

The resolution is as follows:

"That by the ratification of the treaty of peace with Spain it is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States; but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said islands, to prepare them for local self-government, and in due time to make such disposition of said islands as will best promote *the interests of the citizens of the United States* and the inhabitants of said islands."

I have already shown that the exercise by Congress of the powers here claimed would, in the language of the Supreme

Court, "be inconsistent with the existence of our Government in its present form." The power, you observe, is claimed to govern indefinitely, coupled with the declaration that the territory shall never be annexed or admitted as States, while the Supreme Court, in *Murphy v. Ramsey*, 114 U. S., has said that "the power of Congress over the territories is limited by the obvious purposes for which it was conferred, and those purposes are satisfied by measures which prepare the people *to become States in the Union.*" And in *Shively v. Bowlby*, 152 U. S., it is said that territories, under our form of government, can only "*be held with the object, as soon as their population and condition justify it, of being admitted into the Union as States, upon an equal footing with the original States in all respects.*"

I refer to this radical departure from established construction simply to show that the inhabitants of the Philippine Islands are fully justified in asking an authoritative expression of our purposes.

My friends, these people are human beings. They no doubt love liberty and hate slavery as fervently as we do. In the language of Admiral Dewey, they are gentle, docile, and kind. Their social relations are marked by all the affections and tender regard for kindred and friends which mark our own civilization, all the lies to the contrary notwithstanding. They seem to have patriotism, too, which sweetens death in defence of their fatherland. And for these reasons I have been amazed that, in this age of commissions, none was sent to the Filipinos, before the commencement of hostilities against them, to teach them the purposes and designs of the American people. So much we have always done for even the most savage of our Indian tribes. Should we do less for our faithful allies who but recently mingled their blood with ours in the trenches of Manila?

The inhabitants of Puerto Rico and the Philippines should have the same right to the protection of the Constitution which we enjoy. If these people be violated in life, liberty, or property; if they shall be robbed of property or punished in person with-

out regard to the sacred guaranties of that Constitution, and without the intervention of jury trials ; if they be plundered by taxes, duties, imposts, and excises, in excess of those levied and collected in the States themselves, and beyond the limits of that uniformity prescribed by the organic law of the land ; if soldiers, in peace, be quartered upon them and extraordinary taxes be wrung from their poverty for that purpose, this would not be expansion—that peaceful enlargement of national domain by the addition of willing States—but it would be *imperialism*, that monster progeny of greed and violence which always brings poverty, slavery, and death. It is but another name for tyranny, resistance to which, in the vocabulary of freemen, is obedience to God.

I am an expansionist. I would let the light of our free institutions so shine that others, seeing our wealth, our prosperity, and our happiness, would voluntarily ask to share with us our many blessings. But I am not an imperialist. God grant that freedom shall ever follow the American flag. When that flag ceases to be the emblem of liberty, let it be “hauled down.” I know of but one flag, and that is the one which proudly floats “o’er the land of the free and the home of the brave.” It will never float gracefully over a land of slaves. Let us be able to paraphrase, in truth, those beautiful lines of Cowper :

“Slaves cannot breathe in America ; if their lungs
Receive our air, that moment they are free ;
They touch our country and their shackles fall.”

My friends, in what nations of Europe to-day will you find the most assured safety for person and property ? In what nations is promised the greatest immunity from the ravages of war ? A moment’s thought will point to Switzerland, Belgium, Denmark, and Holland. Their strength consists in their weakness. Unable to take the sword, they are not destined to fall by the sword. It is the strong nations whose soil is soon to be drenched with the blood of their citizens.

The plundered spoils in Africa and the partition of China cannot be peaceably adjusted. For fifty years the strong

nations of Europe have been preparing for the strife; and the first gun of the most stupendous war known in history may be fired before the opening of the 20th century. What interest have we in this threatened conflict? In the language of the purest patriot the world has produced, "Why quit our own to stand on foreign ground? Why, by interweaving our destiny with that of any part of Europe, entangle our peace and prosperity in the toils of European ambition, rivalry, interest, humor, and caprice?"

I think it was Edmund Burke who said, "the people never give up their liberties but under some delusion."

One of the prevalent delusions to-day is, that expansion of territory is equivalent to national power. Is it not a source of weakness rather than of strength? Such was the experience of Rome, and such has been unquestionably the experience of Spain. Another delusion is that colonies afford markets for the mother country. Such was the case when colonies were ruled without regard to their rights, and solely for purposes of extortion by the dominant power. Such conduct is now invariably met by open resistance, and the suppression of rebellions costs far more than the profits of plunder. Hence has come the new and better doctrine of the "open door" to commerce. But this means that the owner or proprietor has no privileges superior to those of other nations. The owner pays the expenses of administration while others enter the open door on an equal footing with himself. I therefore see no material profit in the ownership of the Philippines. It is said we cannot honorably return them to Spain. It seems, at present, that we are in no good condition to deliver, and Spain is impotent to hold them. Spain never had them to convey, and we received the transfer possibly under the well-known doctrine of *caveat emptor*. Spain had no title, and the title of her vendee seems to have grown into no better estate.

Again, it is said that if we abandon them to their fate, Germany or France, or somebody else, will take them. Perhaps it may be well to let them try it. It will likely gorge their appetites for colonial expansion. By the time they have swallowed

and assimilated the Philippines, smaller portions of China may satisfy their imperial cravings.

It is said that our humanity and Christian spirit would revolt against abandoning these poor creatures who have so long been the victims of Spanish cruelty. The latest reports from Manila seem to indicate that the Filipinos themselves would gladly release us from any supposed obligations in this respect. And our bayonets and gunboats carry to them but little of Christian charity.

It is often triumphantly asked, What would *you* do with the Philippines? Originally, when the Spanish fleet was destroyed at Manila, I should have ordered Admiral Dewey to Cuba, that he might assist in carrying out the orders of Congress in declaring war,—“to drive Spain from Cuba and Cuban waters.” That was the extent of the declaration of war, and everything beyond that is *ultra vires*.

Having committed the blunder of leaving him in Asia, I would now negotiate with the Filipinos to take Manila as a naval station, and then help them to establish a republic of their own, the United States agreeing to aid them in the good work, and to protect them from any threatened interference with their free institutions, they to return to us that \$20,000,000 which Spain received from us on a defective title.

TRUE WISDOM FORBIDS DEPARTURE FROM SAFE PRECEDENTS.

Following the teachings of our patriotic ancestors, a single century has sufficed to make us the greatest, the most honored, the most important nation of the earth.

A population of three millions has rapidly grown to be seventy-five millions. Individual poverty has been happily supplanted by all the elements of personal comfort. A temperate climate, combined with fertility of soil, has brought plenty,—yea, riches,—to the farmer's home.

The manufacturer has prospered until, after supplying the American demand, he ships from his products a surplus of over three hundred million dollars to foreign markets. Our internal

commerce exceeds that of all Europe. In aggregate exports we already excel the most prosperous nations of the world. Our balances of trade are now so large as to threaten the financial peace of Europe, and these balances furnish the abundant resources of gold which supply the overflowing streams of our commerce at home.

These are the triumphs of peace. All was accomplished without an army and without a navy. Trade makes friends, war makes enemies. We waged no foreign wars and we had no foreign enemies. We offered to all the riches of our commerce, and the nations gave us the willing hand of friendship.

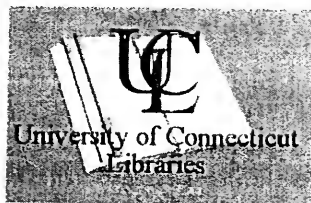
We are now entering upon an untried experiment in our system of government. WHY NOT LET WELL ENOUGH ALONE?

Imperialism contains more armed soldiers than the fabled wooden horse of Troy. Imperialism reverses the entire theory of self-government. It discards the wisdom of our fathers, repudiates, without shame, the Monroe doctrine, and joins hands with the execrated Holy Alliance. It rejects the civil equality of men and accepts, without protest, the oppressions and despotism of the 16th century. This war in the Philippines brings us back into the shadows of the dark ages. It is a war for which no justification can be urged. As no reasons could be assigned for its existence, Congress was ashamed to make up any record of its declaration. It has scarcely better excuse than the wars of subjugation waged by Imperial Rome, whose object was to plunder, and enslave the weak, and whose result was, in the language of its own historian, to make a desert of other lands and call it peace.

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